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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,197	04/19/2004	Frank J. Colombo	H0002694 DIV 1 (4760)	2331

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/827,197

Applicant(s)

COLOMBO, FRANK J.

Examiner

Marc A. Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/5/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: There are two claims numbered 10 and 11.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 5, 10 – 13, 15 and 17 – 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Takagaki et al (U.S. Patent No. 5,352,043).

With regard to Claims 1 and 10 – 12, Takagaki et al disclose a barrier film (therefore a chemical barrier film; column 6, lines 43 – 47) comprising an inner layer comprising nylon (column 5, lines 61 – 65), a middle layer comprising a polyester attached to a surface of the middle layer (polyethylene terephthalate; column 6, lines 37 – 42) and an outer layer comprising a polyolefin attached to a surface of the middle layer (polyethylene; column 6, lines 37 – 42). With regard to the claimed aspect of the nylon being ‘unoriented,’ Takagaki et al do not teach that the nylon is oriented. The claimed aspect of the nylon being ‘unoriented’ therefore reads on Takagaki et al.

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With regard to Claims 2 – 3, Takagaki et al teach that it is equivalent for the middle layer or outer layer to comprise polyolefin and the middle layer or outer layer to comprise polyester (column 6, lines 8 – 26).

With regard to Claims 4 – 5 and 13, Takagaki et al disclose a polyester that is metallized (plastic film comprising aluminum foil, therefore metal foil; column 6, lines 43 – 47).

With regard to Claim 15, Takagaki et al do not disclose an outer layer that is oriented; an outer layer that is oriented is therefore disclosed by Takagaki et al

With regard to Claim 17, the inner, middle and outer layers are laminated together (column 6, lines 48 – 51).

With regard to Claims 18 – 19, Takagaki et al further disclose adhesive layers between the outer and middle layer and between the middle layer and inner layer (intermediate layers; column 6, line 30).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 – 9 and 20 – 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Takagaki et al (U.S. Patent No. 5,352,043) in view of Ng et al (WO 95/15992).

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Takagaki et al disclose a film comprising a layer of nylon as discussed above.

With regard to Claims 6 – 9 and 20 – 21, Takagaki et al fail to disclose a nylon comprising nylon 6 and a blend of nylon 6 and nylon 66.

Ng et al teach the use of a blend of nylon 6 and nylon 66 (page 4, lines 3 – 6) in the making of a nylon film (page 6, lines 20 – 31) for the purpose of obtaining a film having maximum bond strength of sealing (page 4, lines 27 – 30). One of ordinary skill in the art would therefore have recognized the advantage of providing for the blend of Ng et al in Takagaki et al, which comprises a nylon film, depending on the desired bond strength of sealing of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for nylon 6 and a blend of nylon 6 and nylon 66 in Takagaki et al in order to obtain good adhesion to both layers as taught by Ng et al.

6. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagaki et al (U.S. Patent No. 5,352,043) in view of Hatano et al (U.S. Patent No. 5,527,616).

Takagaki et al disclose a nylon film as stated above. With regard to Claims 14 and 16, Takagaki et al fails to disclose a nylon film having an outer layer that is oriented and that is coextruded.

Hatano et al disclose a nylon film having a layer that is oriented and coextruded for the purpose of obtaining a film having strength and heat sealability (column 1, lines 19 – 37). One of ordinary skill in the art would therefore have recognized the advantage

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of providing for the orientation and coextrusion of Hatano et al in Takagaki et al, which comprises a nylon film, depending on the desired strength and heat sealability of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for an outer layer that is oriented and that is coextruded in Takagaki et al in order to obtain a film having strength and heat sealability as taught by Hatano et al.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 6/12/06*  
Marc A. Patterson, PhD.  
Primary Examiner  
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